

AMENDED IN SENATE JANUARY 19, 2000

AMENDED IN ASSEMBLY MAY 28, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 809

Introduced by Assembly Member ~~Strom-Martin~~ Lowenthal
(~~Coauthors: Assembly Members Jackson, Kuehl, Longville,~~
~~and Mazzoni~~)

(Principal coauthor: Assembly Member Strom-Martin)

(Principal coauthor: Senator Karnette)

(Coauthors: Assembly Members Florez and Reyes)

February 24, 1999

~~An act to amend Section 5067 of the Vehicle Code, relating to vehicles.~~ *An act to add Section 1673 to the Vehicle Code, relating to vehicles, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 809, as amended, ~~Strom-Martin~~ Lowenthal. ~~Special environmental design license plates: fund~~ Vehicles: smog impact fee: refunds.

Existing law imposes a smog impact fee of \$300 on a person making application to register a motor vehicle in this state that was previously registered outside this state, with certain exceptions. However, in the case of Jordan v. D.M.V. (1999) 75 Cal.App.4th 449, the court ruled that the imposition of this fee is unconstitutional.

This bill would require the Department of Motor Vehicles to search its records to identify all persons who paid the smog

impact fee on or after October 1, 1990, and, using funds appropriated to the department for this purpose, to provide a payment to each person identified, consisting of the amount of smog impact fee, any penalty paid to the department for late payment of the fee, and interest on the total amount. The bill would require the interest to be calculated as specified.

The bill would create the Smog Impact Fee Refund Account in the State Transportation Fund and would continuously appropriate the money in the account to the department for the purpose of funding the specified refunds.

The bill would become operative only if SB 215 of the 1999–2000 Regular Session is enacted and becomes operative, as specified.

~~Existing law requires the Department of Motor Vehicles to issue special interest license plates containing a distinctive design or decal of a participating organization, to any person, to be displayed in lieu of regular license plates, including the requirement that the department issue special environmental design license plates that bear a design depicting a California coastal motif. In connection with the issuance of these special environmental design license plates, existing law prescribes the fees to be paid for the issuance, renewal, transfer, and substitution of these plates. Existing law requires that any additional fees for the issuance of these environmental design license plates be deposited in the California Environmental License Plate Fund, and that, of the other additional fees collected, $\frac{1}{2}$ be deposited in the California Beach and Coastal Enhancement Account and $\frac{1}{2}$ in the California Environmental License Plate Fund.~~

~~This bill would require $\frac{1}{2}$ of the additional fees that are currently deposited in the fund to instead be deposited in the License Plate Coastal Access Account, which the bill would create, in the State Coastal Conservancy Fund of 1984. The bill would require the money in this new account to be available, upon appropriation, to the State Coastal Conservancy for grants to public agencies and nonprofit entities or organizations for specified purposes.~~

~~Vote: majority $\frac{2}{3}$. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

~~SECTION 1. Section 5067 of the Vehicle Code is~~

SECTION 1. The Legislature finds and declares all of the following:

(a) Chapter 3.3 (commencing with Section 6261) of Part 1 of Division 2 of the Revenue and Taxation Code imposes a three hundred dollar (\$300) smog impact fee on used motor vehicles that were last registered outside of this state and are not certified to meet the state's vehicle emission control requirements. The fee is due upon the initial registration of the vehicle in this state.

(b) The smog impact fee has been collected by the Department of Motor Vehicles on behalf of the state since November 1990, during which time approximately 1,700,000 vehicle owners have paid the fee, resulting in a total amount of approximately five hundred million dollars (\$500,000,000).

(c) Lawsuits challenging the imposition of the smog impact fee were the subject in the case of Jordan v. Department of Motor Vehicles (1999) 75 Cal.App.4th 449, in which the court ruled that imposition of the smog impact fee is unconstitutional and ordered the state to refund the fees to the plaintiffs.

(d) The Governor, in November 1999, announced that the state would not appeal the decision of the court in the case cited under subdivision (c) and that the state would refund the smog impact fee, plus interest, to all persons who have paid the fee. The Governor also instructed the Department of Motor Vehicles to stop collecting the fee and made provision in the proposed 2000–01 Budget Act for legislation appropriating funds to pay the smog impact fee refunds with interest.

(e) The Legislature, through enactment of this act and its companion measure, Senate Bill 215, intends to do all of the following:

(1) Repeal existing provisions of law that establish and impose the smog impact fee.

(2) Require the Department of Motor Vehicles to search its records and promptly identify those persons

1 who paid the smog impact fee and are eligible for a
2 refund.

3 (3) Notify all eligible recipients of the pending refunds
4 and provide a simplified verification and claims
5 procedure for those refunds.

6 (4) Immediately provide payment of the smog impact
7 fee refunds to eligible persons, including the three
8 hundred dollar (\$300) fee, any penalty fee collected for
9 late payment of the smog impact fee, and any interest
10 earned on those charges.

11 (5) Appropriate the full amount of funds necessary to
12 refund the smog impact fee, any penalty fee collected for
13 late payment of the smog impact fee, and any interest due
14 to those who paid the fee.

15 SEC. 2. Section 1673 is added to the Vehicle Code, to
16 read:

17 1673. (a) The department, in coordination with the
18 Department of Finance, shall do all of the following:

19 (1) Search its records to identify all persons who paid
20 the smog impact fee imposed under Chapter 3.3
21 (commencing with Section 6261) of Part 1 of Division 2
22 of the Revenue and Taxation Code on or after October 1,
23 1990, and mail each of those persons a refund notification
24 form notifying the person that he or she is owed a refund
25 of the smog impact fee. This form shall include the make
26 and year model of the vehicle on which the fee was paid
27 and the date and location of the payment. The person
28 shall be required to verify his or her identity, under
29 penalty of perjury, and return the form to the
30 department.

31 (2) Using funds appropriated to the department for
32 this purpose, provide a payment to each person who
33 completes and returns the refund notification form
34 mailed under paragraph (1), immediately upon
35 determining that the information provided on the form
36 is true and accurate, consisting of all of the following
37 amounts:

38 (A) Three hundred dollars (\$300), the amount of the
39 smog impact fee, plus the amount of any penalty fee

1 collected from that person for late payment of the smog
2 impact fee.

3 (B) An amount equal to the interest that would have
4 accrued to the amount refunded under subparagraph
5 (A), calculated at the interest rate for the Pooled Money
6 Account for the period commencing with the date the
7 smog impact fee and any late penalty fee was paid to the
8 department and ending on the date the department
9 makes the payment required under this section or the
10 90th day after the application is mailed under paragraph
11 (1), whichever is earlier.

12 (b) The Smog Impact Fee Refund Account is hereby
13 created in the State Transportation Fund.
14 Notwithstanding Section 13340 of the Government Code,
15 Funds in the account are hereby continuously
16 appropriated without regard to fiscal years for
17 expenditure by the department only for the purposes of
18 making the refunds required under this section.

19 (c) Any refund made under this section that is
20 returned to the department because the recipient's
21 mailing address is incorrect shall be redeposited in the
22 account and retained in the account until the department
23 is able to locate the recipient or until the date funds are
24 transferred from the account to the General Fund, as
25 required under paragraph (2) of subdivision (e),
26 whichever is earlier.

27 (d) (1) In the case of a person who is eligible for a
28 refund under this section, but for whom the three-year
29 limitations period imposed under Section 6902 of the
30 Revenue and Taxation Code has expired or has one year
31 or less remaining, no refund may be made under this
32 section for a refund notification form that is returned
33 more than one year after the date the form is mailed by
34 the department under paragraph (1) of subdivision (a).

35 (2) In the case of a person who is eligible for a refund
36 under this section and for whom the three-year
37 limitations period imposed under Section 6902 has more
38 than one year remaining, the period of eligibility for a
39 refund under this section shall be determined under that
40 statute of limitations.

(e) (1) The director shall notify the Controller, in writing, of the date on which the department mails the last form under paragraph (1) of subdivision (a).

(2) The Controller shall transfer from the account to the General Fund all money that is in the account after one year has elapsed from the date specified under paragraph (1), except for funds required to make refunds to persons described in paragraph (2) of subdivision (d).

(f) The department may expend no more than eleven million dollars (\$11,000,000) from the account for the purpose of mailing the forms under paragraph (1) of subdivision (a).

SEC. 3. This act shall become operative only if Senate Bill 215 of the 1999–2000 Regular Session is enacted and becomes operative and transfers funds from the General Fund to the Smog Impact Fee Refund Account for the purpose of making refunds of the smog impact fee enacted under Chapter 3.3 (commencing with Section 6261) of Part 1 of Division 2 of the Revenue and Taxation Code.

amended to read:

~~5067. (a) The department, in consultation with the California Coastal Commission, shall design and make available for issuance pursuant to this article special environmental design license plates. Notwithstanding subdivision (a) of Section 5060, the special environmental design license plates shall bear a graphic design depicting a California coastal motif and may be issued in a combination of numbers or letters, or both, as requested by the applicant for the plates. Any person described in Section 5101 may, upon payment of the additional fees set forth in subdivision (b), apply for and be issued a set of special environmental design license plates.~~

~~(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, retention, or transfer of the special environmental design license plates authorized pursuant to this section:~~

~~(1) For the original issuance of the plates, fifty dollars (\$50).~~

~~(2) For a renewal of registration of the plates or retention of the plates, if renewal is not required, forty dollars (\$40).~~

~~(3) For transfer of the plates to another vehicle, fifteen dollars (\$15).~~

~~(4) For each substitute replacement plate, thirty-five dollars (\$35).~~

~~(5) In addition, for the issuance of an environmental license plate, as defined in Section 5103, the additional fees prescribed in Section 5106 and 5108. The additional fees prescribed in Sections 5106 and 5108 shall be deposited in the California Environmental License Plate Fund.~~

~~(c) After deducting its administrative costs under this section, the department, except as provided in paragraph (5) of subdivision (b), shall deposit the additional revenue resulting from the issuance, renewal, transfer, and substitution of special environmental design license plates as follows:~~

~~(1) One-half in the California Beach and Coastal Enhancement Account, which is hereby created in the California Environmental License Plate Fund. Upon appropriation by the Legislature, the money in the account shall be allocated by the Controller to the California Coastal Commission for expenditure for the Adopt-A-Beach program, the Beach Cleanup Day program, coastal public education programs, and grants to local governments and nonprofit organizations for the costs of operating and maintaining public beaches related to these programs. Any funds remaining in the California Beach and Coastal Enhancement Account at the end of a fiscal year shall be allocated by the Controller, after appropriation by the Legislature, to the State Coastal Conservancy for coastal natural resource restoration and enhancement projects and for other projects consistent with the provisions of Division 21 (commencing with Section 31000) of the Public Resources Code.~~

~~(2) One-half in the License Plate Coastal Access Account, which is hereby created in the State Coastal Conservancy Fund of 1984. The money in the account~~

1 ~~shall be available, upon appropriation, to the State~~
2 ~~Coastal Conservancy for the following:~~

3 ~~(A) Grants to public agencies and private nonprofit~~
4 ~~entities or organizations for the development,~~
5 ~~maintenance, and operation of new or existing facilities~~
6 ~~that provide public access to, or along, the coastline~~
7 ~~pursuant to Chapter 9 (commencing with Section 31400)~~
8 ~~of Division 21 of the Public Resources Code.~~

9 ~~(B) Grants to public agencies and private nonprofit~~
10 ~~entities or organizations for the maintenance and~~
11 ~~operation of environmentally sensitive habitat areas.~~

